

Appln. No. 10/808,096
Amendment dated February 1, 2006
Reply to Office Action mailed November 1, 2005

REMARKS

Reconsideration is respectfully requested.

Entry of the above amendments is courteously requested in order to place all claims in this application in allowable condition and/or to place the non-allowed claims in better condition for consideration on appeal.

Claim 13 remains in this application. Claims 1 through 12 have been cancelled. No claims have been withdrawn or added.

Paragraphs 1 through 6 of the Office Action

Claims 1, 2, 6, 7, 9 through 13 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Gross in view of Leighton.

Claims 1, 2, 6, 9, 10, and 12 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Grosvold in view of Leighton.

Claims 1, 2, 6, 9, and 10 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Grosvold in view of Leighton, and further in view of Gross.

Claim 13 has been written into independent form with no new limitations (and thus no further searching is necessary), and requires, in part, "said substantially cylindrical sleeve wall having a uniform diameter from said juncture with said substantially spherical bulb wall to said end opening of said sleeve wall".

It is conceded in the rejection of the Office Action that "Gross does not disclose that the cylindrical sleeve wall has a uniform diameter from the juncture to the end opening of the sleeve wall," and it is then contended that "attention is directed to the Leighton et al reference which teaches a plunger 28 comprising a cylindrical sleeve wall 38 having a uniform diameter". It is further contended that, with respect to the Gross patent:

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It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide a cylindrical sleeve wall having a uniform diameter on the Gross plunger device in view of the teaching of the Leighton et al reference, wherein doing so would be a matter of obvious design choice.

and with respect to the Grosvold patent:

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the cylindrical sleeve of Grosvold plunger to a uniform diameter in view of the teaching of Leighton et al reference allowing the cylindrical sleeve of the plunger to enter the drain line for better cleaning effect

However, nothing in the Leighton patent discloses any reason why one of ordinary skill in the art would be motivated to replace the inwardly tapered skirt 32 of Gross or the outwardly flared flange of the Grosvold device. Certainly, there is no suggestion in the Leighton patent that its cylindrical portion provides "better cleaning effect", as alleged in the rejection. Furthermore, with respect to the Gross patent, it is submitted that the alleged "matter of obvious design choice" does not provide the motivation to alter the Gross skirt and adopt the cylindrical portion of Leighton, as there is no evidence that one of ordinary skill in the art considers these different structures as "equivalent". In fact, the Gross patent points out the purpose and advantage of its configuration at col. 2, lines 39 through 44 (emphasis added);

A flexible skirt portion generally designated as 32 of concave contour designed to conform to the shape of the entrance path to the average water closet trap is attached at its top connecting surface 33 to both bottom surface 18 of force cup body portion 10 and bottom surface 19 of annular flange 16.

Thus, one of ordinary skill in the art considering the disclosure of Gross would understand that the concave contour of its skirt provides a benefit of adaptation to the shape of the trap of a toilet that other shapes do not provide. Again, Leighton does not disclose any particular benefit to the configuration of its cylindrical portion.

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It is therefore submitted that the cited patents, and especially the allegedly obvious combination of Gross, Groswald, and Leighton set forth in the rejection of the Office Action, would not lead one skilled in the art to the applicant's invention as required by claim 13.

Withdrawal of the §103(a) rejection of claim 13 is therefore respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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